



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Allen J. Newman, P.E.
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO PETERS EQUIPMENT COMPANY, LLC

Registration No. 11650

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1 – 1309, and - 1316, between the State Air Pollution Control Board and Peters Equipment Company, LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. “Board” means the State Air Pollution Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and - 1301.
2. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. “Facility” means the Peters Equipment Company, LLC, located at 129 Industrial Park Rd in Bluefield, Tazewell County, Virginia, which is permitted to operate a steel fabrication facility.

5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
8. "PCE" means a partial compliance evaluation by DEQ staff.
9. "Permit" means the minor New Source Review permit to modify and operate a steel fabrication facility which was issued under the Virginia Air Pollution Control Law and the Regulations to Peters Equipment Company, LLC on August 21, 2014.
10. "Peters Equipment Company, LLC" means Peters Equipment Company, LLC, a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Peters Equipment Company, LLC is a 'person' within the meaning of Va. Code § 10.1-1300.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution", means 9 VAC 5 chapters 10 through 80.
12. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Facts and Conclusions of Law

1. Peters Equipment Company, LLC owns and operates the Facility in Tazewell County, Virginia. The Facility is the subject of the Permit which allows the company to operate a steel fabrication facility.
2. On April 19, 2016, DEQ staff conducted a PCE during which a records review demonstrated the Facility used a non-equivalent coating, Devprime 1403, during September 2015.
3. Condition No. 6 of the Permit states, "The throughput of the following coating materials, or their equivalents, in the spraying bays shall not exceed the limits specified in the following table...A change in the type or formulation of the coatings listed above may require a change in the permit."

4. 9 VAC 5-80-1180 requires that, "...C. Minor NSR permits may contain emissions standards as necessary to implement the provisions of this article and 9VAC5-50-260. The following criteria apply in establishing emission standards to the extent necessary to assure that emission levels are enforceable as a practical matter:...3. The standard may prescribe, as an alternative to or a supplement to a limit prescribed under subdivision 1 of this subsection, equipment, work practice, fuels specification, process materials, maintenance, or operation standards, or any combination of them..."
5. 9 VAC 5-170-160(A) states: "The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits."
6. Va. Code § 10.1-1322(A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Law.
7. On May 17, 2016, based on the results of the April 19, 2016 PCE, the Department issued a Notice of Violation No. ASWRO000409 to Peters Equipment Company, LLC for the alleged violations described in paragraph C(2) above.
8. On May 24, 2016, Peters Equipment Company, LLC contacted DEQ staff electronically in response to the NOV.
9. On June 21, 2016, Department staff met with representatives of Peters Equipment Company, LLC to discuss the alleged violations.
10. Based on the results of the April 19, 2016 PCE and the June 21, 2016 meeting, the Board concludes that Peters Equipment Company, LLC has violated Permit Condition 6 and 9 VAC 5-80-1180 as described in paragraph C(2).

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and - 1316, the Board orders Peters Equipment Company, LLC and Peters Equipment Company, LLC agrees to:

1. Perform the action described in Appendix A of this Order, and

2. Pay a civil charge of \$1,737 within 30 days of the effective date of the Order in settlement of the violation cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Peters Equipment Company, LLC shall include its Federal Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Federal Pacific Transformer Company shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Peters Equipment Company, LLC for good cause shown by Peters Equipment Company, LLC, or on its own motion pursuant to the Administrative Process Act Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses only those violations specifically identified in Section C of this Order and NOV No.ASWRO000409 dated May 17, 2016. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order
3. For purposes of this Order and subsequent actions with respect to this Order only, Peters Equipment Company, LLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Peters Equipment Company, LLC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Peters Equipment Company, LLC declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the

right to any administrative proceeding for, or to judicial review of, any action taken by the Board or Director to modify, rewrite, amend, or enforce this Order.

6. Failure by Peters Equipment Company, LLC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Peters Equipment Company, LLC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Peters Equipment Company, LLC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Peters Equipment Company, LLC shall notify DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition listed above, which the parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his

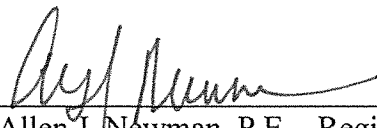
designee and Peters Equipment Company, LLC. Nevertheless, Peters Equipment Company, LLC agrees to be bound by any compliance date, which precedes the effective date of this Order.

11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Peters Equipment Company, LLC has completed all of the requirements of the Order.
 - b. Peters Equipment Company, LLC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order, or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Peters Equipment Company, LLC.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Peters Equipment Company, LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Peters Equipment Company, LLC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Peters Equipment Company, LLC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Peters Equipment Company, LLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Peters Equipment Company, LLC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Peters Equipment Company, LLC voluntarily agrees to the issuance of this Order.

And it is ORDERED this 21st day of June, 2016


Allen J. Newman, P.E. - Regional Director
Department of Environmental Quality

Peters Equipment Company, LLC voluntarily agrees to the issuance of this Order.

Date: 6-21-16 By: Craig Ramsey
Craig Ramsey, OEM Division Manager,
Peters Equipment Company, LLC

Commonwealth of Virginia

City/County of WASHINGTON

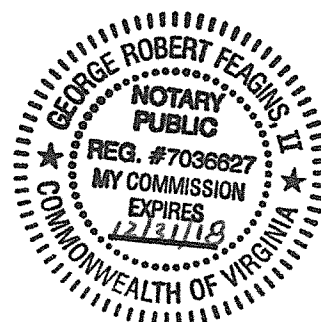
The foregoing document was signed and acknowledged before me this 21st day of
JUNE, 2016 by CRAIG RAMSEY who is
OEM DIVISION MANAGER of Peters Equipment Company, LLC, on behalf of
the corporation.

George Robert Feagins, II
Notary Public

7036627
Registration No.

My commission expires: 12/31/2018

Notary Seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Peters Equipment Company, LLC:

Shall submit a compliance plan within 45 days of the execution of this Order, detailing how the Facility will comply with the conditions of the Permit. The compliance plan may include a permit modification application to include the non-equivalent coating material being used. Additionally, the compliance plan should outline a system for reviewing potential coating(s) prior to usage to establish equivalency with permitted coatings and steps to be taken for submitting permit modifications to include non-equivalent coatings in the future. The system should enable the facility to be made aware of any potential non-equivalent coating usage occurrences and allow for time for the permit modification application submittal and review for permit modification.

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports, submitted to DEQ pursuant to this Consent Order, Peters Equipment Company, LLC, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. DEQ Contact

Unless otherwise specified in this Order, Peters Equipment Company, LLC shall submit all requirements of Appendix A of this Order to:

Crystal C. Bazyk
Enforcement and Air Compliance/Monitoring Manager
VA DEQ – SWRO
355-A Deadmore Street
Abingdon, VA 24210
(276) 676-4829
crystal.bazyk@deq.virginia.gov